

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

GILBERT L. SPURLOCK,

Plaintiff,

v.

CIVIL ACTION NO. 3:04-1193

BANK OF AMERICA, et. al.,

Defendants.

ORDER

This action was referred to the Honorable Maurice G. Taylor, Jr., United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings and recommended that Plaintiff's complaint, and this action be dismissed. The Plaintiff has filed an objection to the Magistrate Judge's findings and recommendation. The Court, having reviewed, de novo, the pleadings and Plaintiff's objection, **ADOPTS** the Magistrates Judge's Findings and Recommendation.

The complaint seeks damages of \$1,648.76 arising out of a credit card dispute identical to an action previously dismissed by order in November of 2004 with the only difference being the addition of an officer of the Bank of America as a party defendant. The only possible basis for this Court to exercise jurisdiction over this case is diversity as provided by 28 U.S.C. § 1332. Section 1332 states that a federal court has jurisdiction to hear a case with diverse parties when the amount in controversy is more than \$75,000. In the present case, the Plaintiff seeks recovery of \$1,648.76, an amount well below necessary for this Court to exercise federal jurisdiction. Whether relying

upon failure to satisfy the jurisdictional requirements of § 1332 or issue preclusion, the Magistrate Judge correctly found this Court does not have jurisdiction over the claim.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Taylor, counsel of record, and any unrepresented parties.

ENTER: December 2, 2005

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE